

State of California
CALIFORNIA OCCUPATIONAL SAFETY AND HEALTH APPEALS BOARD
CLOSED SESSION AGENDA
Government Code § 11126 (a), (c)(3), (e) and (f)
for
Wednesday, February 20, 2013
10 a.m.
Sacramento, California
&
West Covina, California

TO: Members of the California Occupational Safety and Health Appeals Board

FROM: J. Jeffrey Mojcher, Chief Counsel

DATE: February 8, 2013

RE: Closed Session of the Board to be held on February 20, 2013

Pursuant to Government Code section 11126, subdivisions (a), (c)(3), (e) and (f) and the Labor Code sections 6609 and 6620, the Appeals Board will hear the following items in Closed Session. Any item not resolved in this meeting will be continued to subsequent meetings as indicated in the minutes.

DECISIONS OF ADMINISTRATIVE LAW JUDGES:

(Written decision issued by an Administrative Law Judge. The decision summarizes the evidence received from the Division of Occupational Safety & Health and the Employer, makes findings of fact for all issues involved in the appeal and gives reasons and grounds for the decision. The Board Members review the decision and decide if they will reconsider the ALJ decision on their own motion.)

1. DHALIWAL VINEYARD, 12-R2D4-1564
2. GUARDSMARK, LLC, 12-R3D1-0056
3. MASS FRAN DBA WEST COAST WATERPROOFING
4. ORANGE COUNTY FIRE AUTHORITY, 12-R3D1-0440

DECISION AFTER REMAND

1. HARRIS CONSTRUCTION, 03-R2D5-3914

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ORDERS OF ADMINISTRATIVE LAW JUDGES:

(Written order issued by an Administrative Law Judge after a pre-hearing conference in which the Division of Occupational Safety & Health and the Employer agree to settle an appeal without a hearing. The Board Members review the order and decide if they will reconsider or remand the issued order.)

1. ACKER & GUERRERO ROOF COMPANY, INC., 12-R1D3-3127 AND 3128
2. A-CO TEMPORARY POWER, 10-R4D1-3110 AND 11-R4D1-9206
3. ALMONDS EIGHT LLC., 11-R2D5-2890 THROUGH 2892
4. AMERICAN APPAREL, AMERICAN APPAREL (USA) LLC, 12-R4D1-0820 AND 0821
5. RONALD ARVIZU DBA LOS AMIGOS CONSTRUCTION, 10-R1D2-0256 THROUGH 0258
6. ASCENT BUILDERS, INC., 12-R6D7-2141
7. A. TEICHERT & SON INC. DBA TEICHERT AGGREGATES, 10-R5D1-1043
8. BARBOSA BUILDERS, INC., 12-R2D2-1694
9. BEST BUY MARKET, 12-R2D5-2040
10. BERKELEY LAND DAIRY, 11-R2D5-2292
11. BNBT BUILDERS, INC., DBA BNBUILDERS, INC., 12-R1D1-1521 AND 1522
12. BRIDGEPOINT CONSTRUCTION SERVICES, 12-R4D3-0720 THROUGH 0722
13. BRIDGE WAREHOUSE INC., 12-R6D2-3553 THROUGH 3556
14. CAIRN CONSTRUCTION COMPANY, INC., 12-R1D3-2876
15. CAL-TERA RESTORATION INC. DBA PUROFIRST FIRE & WATER RESTORATION, 12-R3D3-2471 AND 2472
16. CBC RESTAURANT CORP. DBA CORNER BAKERY CAFÉ, 12-R3D1-0122 AND 0123
17. MICHAEL CHIARELLO DBA BOTTEGA, LLC., 12-R1D5-0976 THROUGH 0977
18. C & H TREE SERVICE INC. DBA C & H GARDENS ARTISTIC, 12-R3D2-0747

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19. CLOVIS PUBLIC WORKS DEPARTMENT, 10-R2D5-4106 AND 4107
20. CRS DBA TRI STATE STAFFING, 12-R6D2-0509
21. DIGGER'S DINER, 12-R2D2-0599
22. D & S CONSTRUCTION COMPANY, 12-R3D2-0444 AND 0445
23. EAGLE MARINE SERVICES, LTD., 12-R1D4-1895 THROUGH 1897
24. ELLIOTT AUTO SUPPLY CO, INC. DBA FACTORY MOTOR PARTS,
11-R2D1-2658
25. FOXFIRE CONSTRUCTORS INC., 12-R5D1-2003
26. FRESH & EASY NEIGHBORHOOD MARKET, INC., 12-R6D2-0872
27. RAYMUNDO M GARCIA DBA GARCIA FARM LABOR SERVICE,
12-R2D4-2730
28. G HEDGECKOCK INC., 12-R2D4-3037
29. GREENBILT, INC., 12-R1D1-1340
30. HIH CONSTRUCTION MANAGEMENT, 12-R3D6-1539
31. JEFF ARAMBEL FARMS, 12-R2D4-2996 AND 2997
32. JFC CONSTRUCTION, 12-R1D5-0153
33. JIM SLATER CONSTRUCTION, INC., 12-R6D5-1784 AND 1785
34. JMB CONSTRUCTION, INC., 12-R1D1-1150
35. JACKSON FAMILY WINES, INC., DBA KENDALL JACKSON MONTEREY
WINERY, 12-R1D2-1243 THROUGH 1245
36. KENYON PLASTERING OF STOCKTON INC., 12-R2D4-2643
37. KIVA CONTAINER DBA CP PRODUCTS, 12-R3D1-1807
38. REY JOSE LLAMAS DBA LLAMAS AG LABOR CONTRACTING,
12-R6D7-0039 THROUGH 0040
39. LFP VIDEO GROUP LLC DBA HUSTLER VIDEO, 11-R6D2-0966

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THROUGH 0968

40. LONE MOUNTAIN HOMES, INC., 12-R1D1-1149
41. MANPOWER, 12-R6D2-1369 THROUGH 1373
42. MARQUEZ BROTHERS INTERNATIONAL, INC., 12-R3D6-0711
THROUGH 0714
43. McLUCAS & ASSOCIATES, INC. DBA MEDICAL CAREER SERVICES,
12-R4D3-1546
44. MIKE ROVNER CONSTRUCTION INC., 12-R3D2-0323 AND 0324
45. MORRISSEY CONSTRUCTION COMPANY, INC., 12-R6D7-3050
46. NATIONAL HOTEL, 11-R2D1-3025
47. NERO APPAREL, INC., 12-R6D5-1690
48. NICKOLAS K CORP DBA THE FORD STORE SAN LEANDRO, 12-R1D4-3705
49. PAN PACIFIC YARN INC., 11-R6D2-2143 THROUGH 2148
50. PDC FACILITIES, INC., 12-R3D3-2763
51. PETERBERG CONSTRUCTION, INC., 12-R4D1-1401
52. P G & E, 11-R2D5-2056 THROUGH 2058
53. PICAR FARM LABOR INC., 12-R6D7-2985
54. PRIORITY BUSINESS SERVICES INC., 12-R3D6-1359
55. PRO TEK CONSTRUCTION INC DBA BAY CITIES CONSTRUCTION,
12-R6D7-2492
56. QUINN PLASTERING, 12-R1D1-2212 THROUGH 2214
57. RICKEY & WONG DDS, INC., 12-R2D4-2539 AND 2540
58. ROOFCO, INC., 11-R1D4-1366 THROUGH 1368
59. R & R LABOR, INC., 12-R6D7-3452 AND 3453

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60. SCHINDLER ELEVATOR CORPORATION, 11-R1D3-2919
61. S & F CONSTRUCTION COMPANY, 12-R6D5-1658 AND 1659
62. SINCERE CONSTRUCTION COMPANY, INC., 12-R1D1-2252 THROUGH 2260
63. SOUTHWICK, INC. DBA TOYOTA OF BERKELEY, 12-R1D4-3484 AND 3485
64. SUNMAID GROWERS OF CALIFORNIA, 12-R2D5-0431 AND 0432
65. SWECO PRODUCTS, INC., 12-R2D1-3057
66. TORN & GLASSER, INC., 12-R6D2-2557 THROUGH 2559
67. TORN & GLASSER, INC., 12-R6D2-2567 AND 2568
68. THE PLASTER GROUP, INC., 12-R2D2-0702
69. TRICAL, INC., 10-R6D3-0502 THROUGH 0509
70. UNITED PARCEL SERVICE, 12-R3D6-0752 AND 0753
71. VAN GRONINGEN & SONS, INC., 12-R6D7-2865
72. VISTA METALS CORP., 12-R3D3-2921 THROUGH 2923
73. WESTERN DENTAL SERVICES, INC., 12-R2D1-1559
74. Z B I LLC, 12-R4D1-0899
75. ZEPHYR INDUSTRIES INC., DBA MURTEX FIBER SYSTEMS, 12-R3D6-1267
AND 12-R3D6-1375

ORDERS DISMISSING APPEALS:

1. PROFESSIONAL CONSTRUCTION SERVICES, 12-R2D4-2152

MATTERS HELD OVER FROM PREVIOUS MEETINGS:

(If the Board is unable to conclude its deliberations and/or if any matter(s) is (are) put over from a previous meeting, they will be further discussed.)

1. K H S & S OF CONCORD, INC., 11-R2D2-0374 and 0375
2. SIERRA FOREST PRODUCTS, 09-R2D5-3979

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PETITIONS FOR RECONSIDERATION

1. EDCO WASTE & RECYCLING SERVICES, INC., 12-R3D2-0163 & 0164
2. RAJ KUMAR SHARMA DBA SUNRISE ORCHARDS, 2010-R2D1-3391
3. STEVEN D. ANDERSON CONSTRUCTION DBA ANDERSON CONSTRUCTION, 12-R6D5-9181
4. THYSSENKRUPP ELEVATOR CORPORATION, 11-R2D1-2217-2219
5. YNT HARVESTING, 08-R2D5-5010

DENIAL OF PETITIONS FOR RECONSIDERATION (DRAFT):

1. HOFFMAN FOOD MANAGEMENT CO., LLC, 12-R6D7-9156
2. RONALD A. LITTLE DBA AAA TREE SERVICE, 11-R2D1-1499

MATTERS PENDING RECONSIDERATION:

(If the Appeals Board orders reconsideration of an Order or Decision, it reviews the record and then affirms, rescinds, alters or amends the Order or Decision being reconsidered.)

1. A-1 PROTECTIVE SERVICES, INC., 10-R1D1-1592
2. AC TRANSIT, 08-R1D4-0135
3. AGRI-VALLEY IRRIGATION, INC., 07-R2D5-3785 AND 3786
4. ARMOUR STEEL CO., INC., 08-R2D1-2649 THROUGH 2655
5. BOBERG ENGINEERING & CONTRACTING, INC., 06-R3D3-4963
6. BRUNTON ENTERPRISES DBA PLAS-TAL MFG. CO., 09-R6D2-2239 THROUGH 2241
7. BRUNTON ENTERPRISES, INC. DBA PLAS-TAL MFG. CO., 08-R3D3-3445 AND 3448
8. BURBANK RECYCLING, INC., 10-R4D3-0562 AND 0563
9. CALIFORNIA ERECTORS, INC., 10-R1D2-2772 THROUGH 2775

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10. C.C. MYERS, INC., 08-R1D1-952 THROUGH 955
11. CLARK PACIFIC PRECAST, LLC, ET AL, 09-R2D1-0282
12. COFFMAN SPECIALTIES, INC., 10-R3D3-3532
13. COMMERCIAL METAL FORMING, 09-R3D1-1592
14. COMMUNITY RECONSTRUCTION SOLUTIONS, INC., 11-R1D1-1484
15. CONTRA COSTA ELECTRIC, INC., 09-R1D4-3271, 3272 AND 3960
16. COUNTY OF ALAMEDA, GENERAL SERVICES AGENCY, 11-R1D4-3064
17. CORONADO IRRIGATION SERVICES, 09-R4D2-0385 THROUGH 0387
18. CROP PRODUCTION SERVICES, 09-R6D4-4036 THROUGH 4038
19. DAVIS DEVELOPMENT COMPANY, 10-R3D1-3360 THROUGH 3362
20. EZ MIX, INC., 08-R4D3-1898
21. GRANITE ROCK COMPANY, 08-R1D3-3675 THROUGH 3687
22. HYDRO-SCIENCE OPERATIONS INC., 10-R1D2-0389
23. IN THE POCKET, INC. DBA BRENTWOOD BOWL, 11-R1D3-2272
24. IRWIN INDUSTRIES, 08-R6D4-1454
25. LAND O' LAKES PURINA FEED LLC, 08-R2D4-1843 AND 1844
26. LIQUIVISION TECHNOLOGY, INC., 08-R2D1-1712 THROUGH 1714
27. LION RAISINS, INC., 08-R2D5-2253 AND 2254
28. L & S CONSTRUCTION, INC., 10-R3D1-1821 AND 1822
29. M1 CONSTRUCTION, INC., 12-R4D1-0222 AND 0223
30. MARINE TERMINALS, 08-R6D2-1920
31. McCARTHY BUILDING CO., INC., 11-R4D2-1706 AND 2406
32. MORE GUSTO CATERING DBA EL CHOLO CATERING, 10-R4D1-1298

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33. NATIONAL STEEL AND SHIPBUILDING COMPANY, 10-R6D2-3791
34. ORANGE COUNTY FIRE AUTHORITY, 12-R3D1-0364
35. OWENS-ILLINOIS GLASS CONTAINER, INC., 09-R1D4-2021 AND 2022
36. PARAMOUNT FARMS, KING FACILITY, 09-R4D3-0864
37. PERFORMANCE CONTRACTING GROUP DBA PERFORMANCE CONTRACTING, INC., 08-R2D1-0025 AND 0026
38. PERSONNEL PLUS, INC., 11-R3D5-1302
39. ROLLED STEEL PRODUCTS CORP., 10-R6D2-4047 AND 4048
40. JOSH AND CARRIE SALAZAR DBA CJ MANUFACTURING, 09-R6D2-1710
41. SHEEDY DRAYAGE COMPANY, 06-R1D4-3053 THROUGH 3055
42. SHIMMICK-OBAYASHI, 08-R3D3-5023 THROUGH 5025
43. SMUD, 08-R2D1-4887 THROUGH 4889
44. MARTIN J. SOLIS DBA SOLIS FARM LABOR CONTRACTOR, 08-R2D1-3414 THROUGH 3418
45. SOUTHERN CALIFORNIA EDISON CO., 12-R3D3-0499
46. SOUTHLAND-TUTOR-PERINI JOINT VENTURE, 11-R5D1-3248
47. STAFFCHEX, 10-R4D3-2456 THROUGH 2458
48. SUNRISE GROWERES FROZSUN FOODS, 09-R4D3-2850
49. A. TEICHERT & SON, INC. DBA TEICHERT AGGREGATES, 09-R5D1-2443
50. TL PALVICH CONSTRUCTION, INC., 11-R3D6-1303 THROUGH 1310
51. VAN EVERY CONSTRUCTION, INC., 11-R1D4-0936 AND 0937

LEGISLATION:

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PENDING LITIGATION:

(If the Division of Occupational Safety & Health or the Employer disagrees with a decision after reconsideration or a denial of a petition for reconsideration, either one or both parties may apply to the California Superior Court for a writ of mandate. The Appeals Board receives legal advice from its Legal Unit and provides policy direction regarding pending litigation.)

SUPERIOR COURT:

1. XL CONSTRUCTION, 34-2009-80000300 (08- 1191/1193)
2. M.C.M. CONSTRUCTION, INC., 34-2009-80000378 (09-9230)
3. WEBCOR BUILDER, INC., 34-2010-80000439 (06-R1D1-3030/3032)
4. GRANITE CONSTRUCTION CO., INC., (DOSH V OSHAB) 34-2010-80006047 (07-R5D1-3611)
5. CLARK PACIFIC, A GENERAL CALIFORNIA PARTNERSHIP, 34-2010-80000640 (08-R2D1-0027 THROUGH 0030)
6. SMUD, 34-2010-80000723 (08-R2D1-4887)
7. BAY AREA RAPID TRANSIT DISTRICT, 34-2011-80000819 (08-R1D1-5170)
8. MASCON, INC., 34-2011-80000820 (08-R2D1-4178 AND 4279)
9. CLARK PACIFIC DBA PACIFIC EMBEDDED PRODUCTS, 34-2011-80000965 (10-0188~0191)
10. CA PRISON INDUSTRY AUTHORITY, CIV 1105778 (09-R1D5-2459 THROUGH 2461)
11. FLATIRON CONSTRUCTION CORP, 34-2012-80001029 (10-R4D1-2789)
12. HOLLANDER HOME FASHION, BS-135444 (10-R4D2-3704)
13. SECA EQUIPMENT REMOVAL & DISMANTLING, INC., 12CV01039 (07-R2D3-0275)
14. JENSEN PRECAST, 34-2012-80001120 (05-R2D1-2377)
15. THE HERRICK CORPORATION, 34-2012-80001118 (07-0495)

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16. UNDERGROUND CONSTRUCTION, 34-2012-80001124 (09-3518)
17. DUININCK BROS., INC., 34-2012-80001129 (06-2871)
18. SHERWOOD MECHANICAL, INC., 37-2012-00101466 (08-R3D2-4690 ~ 4693)
19. C.A. RASMUSSEN, INC., 34-2012-80001241-CU-WM-GDS (08-R4D5-0219 AND 0220)
20. SHIMMICK CONSTRUCTION CO., INC., 34-2012-80001248 (09-R2D3-0399)
21. A TEICHERT & SON, DBA TEICHERT CONSTRUCTION, 34-2012-80001258 (05-R2D4-2650 AND 2651)
22. CA DEPT OF FORESTRY, 34-2012-80001263 (10-R2D1-0728)
23. A. TEICHERT & SON, 34-2012-80001265 (05-R2D5-2650 AND 2651)
24. PRESTON PIPELINES, INC., 34-2012-80001277 (09-R6D7-3345)
25. BLUE DIAMOND GROWERS, 34-2012-80001308 (10-R2D1-1280/1281)
26. CLARK PACIFIC PRECAST LLC, et al, 34-2012-80001319 (09-R2D1-0282/0283)
27. A. TEICHERT & SON, DBA TEICHERT CONSTRUCTION, 34-2012-80001332 (09-R4D5-0459 & 0460)
28. A. TEICHERT & SON, DBA TEICHERT AGGREGATES, RG12 659881 (10-R5D1-3029)
29. HOME DEPOT USA, INC., BS141301 (10-3284)
30. PRESTON PIPELINES, INC., 34-2013-8001381 (11-2530)

PERSONNEL: *(Issues regarding staff.)*

Any matter not completed at this Closed Session may be continued to subsequent meetings.